

REMARKS/ARGUMENTS

Claims 19, 21-26, and 28-34 were examined and rejected. Independent claims 19 and 29 have been amended. Reexamination and reconsideration of the claims, as amended and in view of the following remarks, are respectfully requested.

Claims 19, 22-26 and 28 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Pub. No. 2003/0187474 A1 to Keegan et al. ("Keegan") in view of U.S. Pat. No. 7,331,976 to McGuckin, Jr. et al. ("McGuckin"). Claims 29-34 were rejected under 35 U.S.C. § 103(a) as being obvious over Keegan and McGuckin and further in view of U.S. Pat. No. 6,071,300 to Brenneman et al. ("Brenneman"). Such rejections are traversed in part and overcome in part.

Applicants respectfully submit again that the independent claims 19 and 29, even before amendment, are allowable over the cited references for much the same reasons presented in the Remarks made in the Amendment of July 22, 2009. Furthermore, without conceding the correctness of the rejections, independent claims 19 and 29 have each been amended in an effort to expedite prosecution.

Independent claim 19, from which claims 21-26 and 28 depend, has been amended to recite, *inter alia*, "a first deformable non-permeable membrane." Support for this amendment can be found in paragraphs 0070 and 0077 of the original application as filed. Therefore, no new matter has been added.

The amendment to claim 19 clarifies that the claimed deformable membrane is "non-permeable." When the "first expansible member" is placed through a tissue tract and expanded, the "first deformable non-permeable membrane" assumes a spherical shape and prevents blood from leaking through the membrane and out of the tissue tract. ([0070], [0077]) By contrast, the relevant part of Keegan teaches a distally disposed filter 20 which allows blood to pass through while retaining undesired embolic material. (Abstract, paragraph [0048]) Thus, filter 20 is permeable to blood. The remainder of Keegan teaches other similar permeable filters. Keegan does not teach any "deformable non-permeable membrane" as required by independent claim 19 as amended.

This deficiency is not cured by McGuckin. McGuckin also teaches embolic filters which are permeable to blood, for example, capturing (filtering) element 50 as shown in Fig. 6 and discussed in col. 5, ln. 64 – col. 6, ln. 6. McGuckin does not teach any “deformable non-permeable membrane” as required by independent claim 19 as amended.

As neither Keegan nor McGuckin teach a “deformable non-permeable membrane,” the cited references fails to disclose each and every element of independent claim 19. Therefore, *prima facie* obviousness cannot be established. Claim 19 and claims 21-26 and 28 which depend therefrom are thus believed to be in condition for allowance.

Independent claim 29, from which claims 30-34 depend, has similarly been amended to recite, *inter alia*, “a first deformable non-permeable membrane.” Support for this amendment can be found in paragraphs 0070 and 0077 of the original application as filed. Therefore, no new matter has been added.

As discussed above with regard to claim 19, neither Keegan nor McGuckin teach any “deformable non-permeable membrane.” Regarding Brenneman, Applicants note that even assuming Brenneman or any other reference teaches such a “deformable non-permeable membrane,” a proposed modification to a prior art teaching cannot render the prior art unsatisfactory for its intended purpose. MPEP § 2141.03(v). Modification of the blood permeable embolic filters of Keegan and McGuckin to be non-permeable would make the resulting devices unsatisfactory for their intended purpose of allowing blood to pass through while retaining undesired embolic material.

For at least these reasons, *prima facie* obviousness cannot be established and claim 29 and claims 30-34 which depend therefrom are thus believed to be in condition for allowance.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 10/718,504

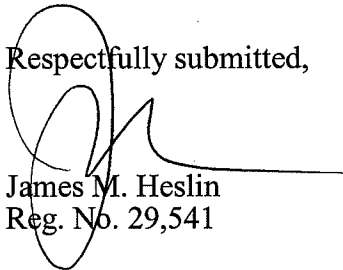
PATENT

Response Under Rule 1.111 dated July 2, 2010

Reply to Office Action of January 5, 2010

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "J. Heslin", with a long horizontal line extending to the right.

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